

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Meadowlark Place Apartments, LLC,**  
Appellant,

v.

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-77-0499**  
**Parcel No. 311/00341-175-001**

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This appeal came on for hearing before the Iowa Property Assessment Appeal Board (PAAB) on April 29, 2015. Attorney Deborah Tharnish of Davis, Brown, Koehn, Shors & Roberts, P.C. in Des Moines represented Meadowlark Place Apartments, LLC. Assistant Polk County Attorney Ralph E. Marasco, Jr. represented the Polk County Board of Review.

Meadowlark Place Apartments, LLC (Meadowlark) is the owner of residential property located at 1000 SE 11th Street, Grimes, Iowa. The property was built in 2012 and consists of four, three-story apartment buildings with 120 units, 125,510 square-feet of finished area, 81 garages, a 2402 square-foot clubhouse, a playground area, and 71,000 square feet of concrete paving. The site is 7.883-acres.

The property's January 1, 2013, assessment was \$8,620,000, allocated as \$600,000 in land value and \$8,020,000 in improvement value. Meadowlark protested to the Board of Review on the grounds that the assessment was not equitable as compared to like properties in the taxing jurisdiction and that the property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). It also alleged an error claim; however, it merely reiterated its equity claim. It requested an assessed value of \$5,820,000. The Board of Review denied the petition.

Meadowlark then appealed to this Board reasserting its equity claim.

### *Findings of Fact*

James Sarcone, Risk Management & Insurance Coordinator for Hubbell Realty Company in West Des Moines, testified on behalf of Meadowlark. He described the property's location off Highway 141 in Grimes and noted it is near an industrial complex. In Sarcone's opinion, Grimes is the least desirable of the western suburbs and does not have any local amenities. For these reasons, Sarcone contends Meadowlark cannot command the same rents as apartments in West Des Moines and Johnston. Sarcone reports the clubhouse is small and houses a fitness center, computer room, and 10-15 seat theater. He said the complex has a children's splash pad, but does not have a swimming pool.

Sarcone asserts the Assessor applied inconsistent methods to determine the assessed value of apartments in the County. He believes Meadowlark was valued using the income approach, while other properties were valued based on condominium sales, even though the units are actually rented as apartments. He stated his opinion that Meadowlark is being valued based on 2013 rent levels, whereas other comparable properties are valued using pre-2013 rent levels. Sarcone testified to his opinion that a more equitable assessment would be roughly \$5,800,000, or between \$55,000 and \$60,000 per unit.

To support Meadowlark's inequity claim, Sarcone identified cooperative and condominium complexes operated as apartments that were, in his opinion, the most similar competitors to the subject property in location, age, unit size, and rent. (Revised Ex. 4). The Bristol Apartments is a 102 unit complex, built in 1985 and located in Urbandale. The Winwood Apartments is a 418 unit complex located in Johnston and also built in 1985. Lastly, Turtle Creek is a 308 unit complex built in 2000 and located in West Des Moines. These properties all offer varying amenities. In general, Bristol and Winwood command lower rents than Meadowlark; while Turtle Creek commands higher rents than Meadowlark. Given the variation in unit counts, age, and rental rates, we question the comparability of these properties for an equity analysis.

He developed an income approach to value for each of the properties, which duplicated the method and expense allocations used by the Assessor. (Revised Ex. 4).

<b>Income/Expense Items</b>	<b>Allocation</b>
Vacancy	5%
Laundry Income	\$125/unit
Management Fee	5%
Legal	0.25%
Advertising	1%
Utilities	8.33%
Total Maintenance	11.94%
Property Insurance	3.23%
FF&E	\$1100/unit
Adjusted CAP Rate	9.69% to 10.19%

Sarcone used the potential gross income of each complex and calculated the net operating income applying the allocations listed above. He used the same capitalization rate and tax constant used by the Assessor to arrive at a cap rate of 9.69% for the subject. Sarcone then adjusted this capitalization rate for each comparable to account for the differences in property ages. The adjustments, to 9.94% and 10.19%, were based on his experience and judgment. (Revised Ex. 4).

<b>Complex</b>	<b>Assessed Value</b>	<b>AV/Unit</b>	<b>Est Value</b>	<b>Ratio</b>
Meadowlark	\$ 8,620,000	\$ 71,800	\$ 9,132,850	94.38%
Bristol	\$ 5,140,000	\$ 50,400	\$ 5,966,171	86.15%
Winwood	\$ 20,300,000	\$ 48,500	\$ 27,788,328	73.05%
Turtle Creek	\$ 19,440,000	\$ 63,100	\$ 25,881,516	75.11%

Sarcone's calculations show that the subject is assessed at 94.38% of its actual value. In contrast, the comparables are assessed between 73.05% and 86.15% of their actual value. Based on this, Meadowlark contends its assessment is not equitable.

The Board of Review questioned Sarcone about the comparable properties Meadowlark submitted along with its Board of Review protest. (Ex. 1). Those properties have per unit assessments ranging from \$38,896.67 to \$69,560.44 and have unit counts ranging from 72 to 258 units. The Board

of Review also cross-examined Sarcone about a comparable located adjacent to the Sun Prairie Apartments at 5601 Vista Drive. (Ex. D). This 48-unit complex is assessed at approximately \$71,167 per unit, which is consistent with the subject property's assessment on per unit basis. In total, we find there is insufficient information to determine whether these properties are sufficiently comparable to the subject for an equity analysis.

Deputy Assessor Bryon Tack testified for the Board of Review. According to Tack, apartment assessments are set using a uniform method. An initial assessment for a new apartment building, like the subject, is generally made using the cost approach based on values in the IOWA REAL PROPERTY APPRAISAL MANUAL. In subsequent reassessment years, this value is trended up or down each based on an assessment/sales ratio study the Assessor conducts. If there is a protest or appeal, other valuation methods are also developed for the Board of Review. The comparable apartments listed in Exhibit 1 were not new construction; therefore, the original values were trended using the assessment/sales ratio study. Tack testified to his belief that the properties included in Exhibit 4 were also valued using the trending methodology. The 2011 and 2013 sales ratio studies did not indicate any property value changes to apartment complexes in the county were needed.

As it relates to the subject, Tack testified he sought out sales to determine the initial 2013 assessment, but determined there were an insufficient number of sales of recently constructed, residentially classified complexes to complete a sales analysis. Therefore, he valued the subject based on the income and expense data he obtained.

Tack testified that Sun Prairie Apartments at 5703 Vista Drive and at 1233 Prairie View Drive, and Vista Court Apartments at 5515 Vista Drove were all assessed based on a review of comparable condominium unit sales for the last ten years. (Ex. C). Because these properties were the first complexes in the county to convert to residential condominiums, the residential appraisers in the Assessor's office valued them. This process has continued, although the commercial appraisers valued

similar apartments. The Sun Prairie properties should have been transferred to the commercial appraisers with the other condominiums and cooperatives that were operated as apartment units. Tack stated the difference in treatment was an error, which has since been corrected, and done unintentionally.

The Assessor valued Turtle Creek using the income approach in 2011, and by income and sales approaches for the 2011 Board of Review. The 2013 assessment/sales ratio study indicated no adjustments were needed. Winwood South and North Apartments were initially assessed using the cost approach in 2005 by the Assessor. The income approach and/or sales approaches were used by the Board of Review in 2005 and 2009 after protests were filed. In 2007, 2009, and 2011 an assessment/sales ratio study was used by the Assessor to trend the values. In 2011, this Board set the assessed values of Winwood South and North, which had been trended by the assessment/sales ratio study in 2013.

Tack questioned the comparability of the properties Meadowlark provided to the Board of Review. (Ex. 1). Tack also testified that the assessments for the properties in Exhibits 1 and 4 were not set using historical rental rates. Tack stated that the Assessor's office had some indication that rents in the western suburbs were increasing in late 2012 but the office did not raise assessments in 2013 for those apartments because there wasn't enough support. Tack reiterated that the assessment for those properties was set using sales and trend analysis. Meadowlark cross-examined Tack about the fairness of setting the subject property's assessment based on actual, current rental information when comparable properties were set using historical trending.

The Board of Review also submitted an appraisal completed by Michael F. Amundson. (Ex. B). Amundson developed the cost, sales comparison, and income approaches to value the subject. He concluded a value of \$12,600,000 by the cost and income approaches and \$12,300,000 million by the

sales comparison approach. He reconciled a final value opinion of \$12,600,000 million, or \$105,000 per unit as of August 22, 2013.

In his income approach to value, Amundson included real estate taxes in his estimate of expenses, which is not traditionally done in appraisals completed for assessment appeal purposes. Amundson used a capitalization rate of 6.50%, not including a tax constant. After removing the real estate taxes from his expenses and including a 2.19% tax constant in the capitalization rate, Amundson's income approach indicates a value of \$11,091,000 (rounded).

We also recognize that Amundson's appraisal values non-assessable personal property. The unit descriptions indicate electric stoves, microwaves, dishwashers, refrigerators, washers and dryers. (Ex. B, 22). The appraiser notes, "Non-realty items necessary for the continued operation of the property include unit appliances . . . typically included in the sale of multi-family properties. Thus appliances are included in this valuation." (Ex. B, p. 24). In his cost approach, Amundson estimated approximately \$319,334 for appliances, or \$2,661.12 per unit. (Ex. B, p. 38). Sarcone testified the clubhouse includes approximately \$100,000 of personal property with each unit containing roughly \$7500 of personal property, for a total of \$1,000,000.

Assuming Sarcone's estimate of the personal property value to be more accurate, Amundson's appraisal indicates the subject's fair market value is between approximately \$10,091,000 and \$11,600,000. Using the lower end of the range, Meadowlark's assessment ratio is roughly 85.42%. This is within the range of Meadowlark's comparable properties and suggests the subject property is not inequitably assessed.

### ***Conclusion of Law***

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds

presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(a)(2). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Iowa Code section 441.37(1)(a)(1) permits a protest on the basis that the subject property's assessment "is not equitable with assessments of other like property in the taxing district." To prove inequity, a taxpayer may show that an Assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Meadowlark primarily relies on *Eagle Food Centers* in support of its claim. 497 N.W.2d 860. In *Eagle Food Centers*, the District and Supreme Court agreed that the Spring Village shopping center “was not treated the same as other like properties.” *Id.* at 864. The Court examined the income approaches to value utilized by the Assessor, noted differences between the approaches applied to the shopping center and four comparable shopping centers, and concluded that “the assessment of Spring Village is not equitable when the income approach is not uniformly applied to comparable properties.” *Id.* at 864-65.

Here, Meadowlark contends inequity results because the Assessor used the subject’s current rental income to set the assessment when other apartment complexes were valued by trending assessments based on assessment/sales ratio studies. The Court in *Eagle Food Centers* was concerned about the non-uniform application of the *same* assessment method to similarly situated properties. In contrast, Meadowlark’s inequity argument is premised upon the fact that the Assessor applied *different* methods to what it asserts are similarly situated, comparable properties. However, our ruling does not require us to decide whether a taxpayer can prevail on an inequity claim based upon a showing that the Assessor applied *different* assessment methods to comparable properties under the *Eagle Food Centers* test.

Deputy Assessor Tack explained the process for initially valuing apartment complexes using the cost approach, and subsequent market adjustments using the assessment/sales ratio studies in reassessment years. Tack clarified that Board of Review protests and appeals often resulted in

additional valuation approaches being developed. He explained the unintentional error that resulted in the Sun Prairie apartments being valued differently than other apartments and the Assessor's reasonable efforts to correct that mistake. Tack acknowledged that the 2013 assessment was the first full assessment for the subject and, as a result, traditional mass appraisal methods could not be used. Therefore, the Assessor valued the subject using income and expense data for the property.

We are convinced that the Assessor attempted to use a uniform method of assessment for similarly situated apartments and any variances from this method were the result of unintentional error or otherwise had reasonable explanations. Even though it is undisputed that the Assessor used a different assessment method to value the subject, we find there is not sufficient information to conclude the application of a different method resulted in an inequitable assessment.

First, there is insufficient information to determine if the properties Meadowlark submitted with its Board of Review protest are comparable for an equity analysis. (Ex. 1). Therefore, we give them no consideration.

The properties that Meadowlark primarily relies on in support of its equity claim are the Bristol Apartments, Winwood Apartments, and Turtle Creek. (Ex. 4). While Meadowlark asserts they are comparable, the Board of Review disagrees.

Given the information provided to this Board about these properties, we are inclined to agree with the Board of Review that they are not comparable to the subject. We note the subject property was constructed in 2012, whereas the most recently constructed comparable (Turtle Creek) was built in 2000. While Meadowlark has 120 units, both Winwood and Turtle Creek contain over 300 units. Also, the rental data shows that Meadowlark can command much higher rents than both Bristol and Winwood. Each property offers varying amenities and all are located in different western suburbs. Even if we were to discard from consideration the Bristol and Winwood Apartments, which we find to be least similar to the subject due to their age and rental rate variances, Meadowlark cannot prevail on

an inequity claim based upon a comparison with one comparable property. *Maxwell*, 133 N.W.2d at 581.

Second, Meadowlark's assessment does not stand out above the general level of assessments to indicate its assessment is discriminatory or inequitable. "An assessment is not discriminatory unless it stands out above the general level." *Id.*; *Crary v. Bd. of Review of Boone*, 226 Iowa 1197, 286 N.W.428 (1939). *See also Metropolitan Jacobson Dev. Venture v. Bd. of Review of Des Moines*, 524 N.W.2d 189 (Iowa 1994) ("Equality in property taxation requires at a minimum equality within a *class of property*, not just within a representative group of comparable properties chosen by the parties.") (emphasis added).

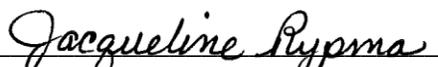
The most comprehensive apartment listing in the record shows a wide variation of apartment complex assessments in Polk County. (Ex. C). Assessments of the included properties ranged from under \$50,000 per unit to over \$107,000 per unit. At \$71,833 per unit, Meadowlark's assessment falls squarely within the range. Meadowlark's assessment does not stand out above the general level, nor does it appear to be inequitable.

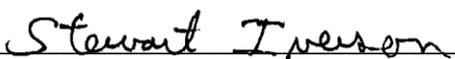
Finally, the record does not show the subject property is inequitably assessed under the *Maxwell* test. Again, we note the questionable comparability of the properties Meadowlark considered in its *Maxwell* analysis. (Ex. 4). Further, we are hesitant to rely on Meadowlark's conclusions regarding the actual value of the subject. Meadowlark calculates the actual value of its property by the income approach at \$9,132,850. However, a financing appraisal by Michael Amundson suggests its value is somewhere between \$10,091,000 and \$11,600,000 after consideration of all three approaches to value. Even using the low end of this range, the subject's assessment ratio is approximately 85.42% and not inconsistent with the ratios Meadowlark calculated in Exhibit 4.

THE APPEAL BOARD ORDERS the January 1, 2013, property assessment of Meadowlark's property located at 1000 SE 11th Street, Grimes, Iowa, of \$8,620,000, is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 17th day of June, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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